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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,619	03/17/2006	Gerrit Hollemans	NL 031121	7652
24737 7590 01/07/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER PAUL, DISLER	
			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/572,619	Applicant(s) HOLLEMANS ET AL.	
	Examiner Disler Paul	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5,8,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellone et al. (US 2004/0042629 A1) and Menzies (6,819,771 B2) and Bodley et al. (US 7,110,535 B2).

Re claim 1, Mellone et al. disclose of the electric device suitable for use in first orientations and in second orientations, having a first function and a second Function, with having a first part and a second part, a detector for detecting, in use, an orientation selected from the first and the second orientations, the device being arranged to: perform, in response to either of the first orientations being detected by the detector: the first function in response to the first part being activated; and the second function in response to the second part being activated; and perform, in response to either of the second orientations being detected by the detector: the second function in response to the first part being activated: and

the first function in response to the second part being activated (fig.6-7; par[0013,0016-0022,0032]/based on sensor in either ear wt orientation enable the production of stereo signals accordingly).

However, Mellone et al. fail to disclose of the system with a user interface, But, Menzies disclose of a head phone system wherein comprising a user interface (fig.2-3 wt (27); col.2 line 50-61; col. 3 line 33-36/body impacts) for the purpose of generating sound dependent on user input. Thus, taking the combined teaching of Mellone et al. and Menzies as a whole, it would have been obvious for one of the ordinary skill in the art at the time of the invention to have modify Mellone et al. by incorporating the system with a user interface for the purpose of generating sound dependent on user input.

However, the combined teaching of Mellone et al. and Menzies as a whole, fail to disclose of the sensor further include of the gravity sensor. But, Bodley disclose of a system for the ear used wherein the sensor further include of the gravity sensor (fig.1-9; col.7 line 45-62) for the purpose of determining the ear being used based on body orientation. Thus, taking the combined teaching of Mellone et al. and Menzies and Bodley as a whole, it would have been obvious for one of the ordinary skill in the art to have modify the combined teaching of Mellone et al. and Menzies as a whole, by incorporating the sensor

further include of the gravity sensor for the purpose of determining the ear being used based on body orientation.

Re claim 2, the electric device as claimed in claim 1, wherein the first orientations are a mirror image of the second orientations, the mirror plane being substantially vertical (fig.6-7 wt (606,608); par[0019-0020]).

Re claim 8, the electric device as claimed in claim 1, wherein the user interface is integrated with a piece of clothing (Menzies, fig.1-2).

Re claim 3, the electric device as claimed in claim 1, comprising a first audio transducer and a second audio transducer, the first function being transducing a first electric signal by the first audio transducer and the second function being transducing a second electric signal by the second audio transducer(fig.4-6; par[0018,0024]).

Re claim 4, the electric device as claimed in claim 1, comprising: a substantially disc-shaped portion shaped to fit in the concha of a human ear and comprising an audio transducer; and a protruding portion extending laterally from the disc-shaped portion, suitable for

carrying a conductive wire to the audio transducer (fig.2,6-7; par [0015])).

Re claim 5, the electric device as claimed in claim 4, having a further function and having control means (405) for controlling the further function (Menzies, fig.1-2; col. 3 line 33-36).

Re claim 10 has been analyzed and rejected with respect to claim 1.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mellone et al. (US 2004/0042629 A1) and Menzies (6,819,771 B2) and Bodley et al. (US 7,110,535 B2) and further in view of Coninx (US 5,727,070).

Re claim 6, the electric device as claimed in claim 1, further comprising an audio transducer with a first function and second function and producing separate distinct signal on each ear (Mellone, par [0022,0024,0032]/distinct signals may be achieved) , However, the combined teaching of Mellone et al. and Menzies and Bodley as a whole, fail to disclose of the specific wherein the functions being increased in the loudness level in range level and decrease of the loudness level in range level. However, Coninx disclosed of a sound system wherein the functions being increased in the loudness level in range

level and decrease of the loudness level in range level (fig.2,4; col.2 line 53-62; col.5 line 4-13/controller to permit adjusting selective earphone volume) for the purpose of enabling the user to hear desired sound with sever background noise sound. Thus, taking the combined teaching of Mellone et al. and Menzies and Bodley and Coninx as a whole, it would have been obvious for one of the ordinary skill in the art at the time of the invention to have modify the combined teaching of Mellone et al. and Menzies and Bodley as a whole, by incorporating the system wherein the functions being increased in the loudness level in range level and decrease of the loudness level in range level for the purpose of enabling the user to hear desired sound with sever background noise sound.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mellone et al. (US 2004/0042629 A1) and Menzies (6,819,771 B2) and Bodley et al. (US 7,110,535 B2).

Re claim 7, the An electric device as claimed in claim 1, wherein the detector comprise a further sensor and the detector is arranged to detect, in use, and orientation in dependence upon either/selectively

the gravity sensor and the further sensor (Bodley, col. 7 line 45-60/switch or gravity may be used), However, the combined teaching of et al. and Menzies and Bodley as a whole, fail to disclose of the specific wherein the detector is arranged to detect, in use, an orientation in dependence upon both the gravity sensor and the further sensor. However, official notice the concept of having two sensors wherein the detecting is based upon both the sensor is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to have modify the combined teaching of et al. and Menzies and Bodley as a whole, by incorporating the concept of having two sensors wherein the detecting is based upon both the sensor for optimally detecting of the ear being used based on body.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mellone et al. (US 2004/0042629 A1) and Menzies (6,819,771 B2) and Bodley et al. (US 7,110,535 B2) and further in view of Osano (US 6,961,591 B2).

Re claim 9, the entertainment system with the electric device in claim 1, comprising: an electric apparatus for processing at least one from an audio signal and a video signal (Mellone, par [0015,0018,0022,0031]), However, the combined teaching of Mellone et al. and Menzies and Bodley as a whole, fail to disclose of the remote



control for remotely controlling the processing. But, Osano disclose of the system wherein the remote control for remotely controlling the processing (fig.12, col.14 line 58 up to col.15 line 15) for the purpose of optimally set the ambient sound according to earphone type. Thus, taking the combined teaching of Mellone et al. and Menzies and Bodley and Osano as a whole, it would have been obvious for one of the ordinary skill in the art at the time of the invention to have modify the combined teaching of Mellone et al. and Menzies and Bodley as a whole, by incorporating the system wherein the remote control for remotely controlling the processing for the purpose of optimally set the ambient sound according to earphone type.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-270-1187. The examiner can normally be reached on 7:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DP

  
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